

CONTRACT COVER SHEET

Department: Sheriff's Office - Detention Center

Date: 5-30-2017

Contract Monitor: J. Phillips - Tammy Evans

Phone Number: 902-2927

CONTRACT INFORMATION: New ☒ Renewal ☐ Amendment ☐

Vendor: Montgomery Technology, Inc.
4-15-16 dm # 171570

Effective Date: July 1 2017

Expiration Date: June 30, 2018

Contract Purpose/Description: Provide the management services necessary for off site video visitation.

Deadline/Special Need: _____

Total Dollar Value (if applicable) \$ N-A New Revenue Code? _____
Budget Account Code: _____

Current year portion: \$ N-A Contract Budgeted: N/A ☒ Yes ☐ No ☐

Date approved by County Commissioners, if applicable _____

Reviewed for HIPAA: N/A ☐ Yes ☒ No ☐

Reviewed for ACM: N/A ☐ Yes ☒ No ☐

Insurance Certificate(s) Attached: N/A ☐ Yes ☒ No ☐

E-Verify Language included: N/A ☐ Yes ☒ No ☐

Iran Divestment Act Lang. included: N/A ☐ Yes ☒ No ☐

DOCUMENT ROUTING

	Date In	Changes Needed Yes No	Reviewer	Date Out	Initial if Changes Accepted
<input checked="" type="checkbox"/> Jeff Phillips Program Supervisor	<u>6/2/17</u>	() (X)	_____	<u>1/1</u>	()
<input checked="" type="checkbox"/> Sheriff Elko Agency Director	<u>6/2/17</u>	() (X)	<u>Malik</u>	<u>6/2/17</u>	()
<input type="checkbox"/> Risk Manager (Ins.)	<u>1/1</u>	() ()	_____	<u>1/1</u>	()
<input checked="" type="checkbox"/> County Attorney	<u>6/9/17</u>	() (X)*	<u>(JB)</u>	<u>6/12/17</u>	()
<input checked="" type="checkbox"/> Finance Officer	<u>6/13/17</u>	() (X)	<u>(JB)</u>	<u>6/13/17</u>	()
<input checked="" type="checkbox"/> County Manager	<u>6/16/17</u>	() (X)	<u>(JB)</u>	<u>6/16/17</u>	()
<input type="checkbox"/> Other: _____	<u>1/1</u>	() ()	_____	<u>1/1</u>	()

Reviewer comments: *initial change to date on p 17 (JB)

Contract Monitor: Please return copy of fully executed Contract with Cover Sheet to the Legal Department for scanning into the Contracts data base and retain original Contract pursuant to your department's retention and disposition schedule.

Montgomery Technology, Inc.


23 Old Stage Road - Greenville, Alabama 36037

Tel: 334-382-7441 / Fax: 334-382-9793

Web: www.montgomerytechnology.com

Video Visitation Service Agreement

This Video Visitation service agreement ("Agreement") is made by and between Montgomery Technology, Inc., having its principle place of business at 23 Old Stage Road, Greenville, Alabama 36037 ("Company") and Pitt County Sheriff's Office, with an address at 124 New Hope Road, Greenville, NC 27834 ("Premise Provider").

1. **Term.** This Agreement shall be in effect for one (1) year, commencing July 1, 2017 ^{initial}  April 15th, 2016. This Agreement may be renewed for four additional one-year term by the Premise Provider with 90 days' notice prior to termination. The full terms of the agreement shall be determined by the option selected under item #4 ("Compensation")
2. **Equipment.** The Premise Provider has already purchased all equipment necessary to facilitate this service. The Premise Provider also maintains a separate service contract with the Company for the purposes of servicing the equipment.
3. **Services.** The Company shall provide all management services necessary to implement this Agreement; the establishment (if and to the extent required by the Company) and compliance with all tariffs and all rules, regulations, orders and policies of federal and state regulatory authorities applicable to the offsite visitation services provided by the company; the establishment and maintenance of all billing and payment arrangements; the performance (alone or through others) of all validation, billing, out clearing and collection services and the handling of all billing and other inquiries, fraud control, and all other services essential to the performance of the Company's obligations under this Agreement. The Company reserves the right to control unbillables, bad debt and fraud.
4. **Compensation.**
 - A. The company shall pay the Premise Provider the following percentage, based on the selection of one of the following options:
 - I. ☒ Eighty percent (80%) of the gross revenue billed or prepaid for all visitation stations covered by the Agreement. Selection of this option is agreement to automatic renewal of the contract for at least two (2) years, as noted in the "Term" section above.
 - II. ☐ Seventy percent (70%) of the gross revenue billed or prepaid for all visitation stations covered by the Agreement. Selection of this option is agreement to automatic renewal of the contract for one (1) years, as noted in the "Term" section above.

- III. _____ Sixty percent (60%) of the gross revenue billed or prepaid for all visitation stations covered by the Agreement. Selection of this option is agreement to a one (1) year contract, as noted in the "Term" section above.
- IV. Gross revenue shall mean all revenue generated by every completed visit that is accepted by an end user and billed by the Company. Gross revenue on which monthly commission will be paid does not include: (a) taxes and tax related surcharges; (b) credits; (c) billing recovery fees; and (d) any amount company collects for, or pays to, third parties, including, but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, such as the Federal Universal Service Fee, and any costs incurred by company in connection with such programs. Payments shall be paid monthly. All commission payments shall be considered final and binding upon the Premise Provider unless written objection is received by the Company in accordance with Section 10 within sixty (60) days of receipt of commission payment by the Premise Provider.

Commission payments will be delivered to the address listed in this Section, which may be changed by Premise Provider from time to time upon notice to Company in accordance with terms of the notice provision of this Agreement. Commission Payments shall be assessed on the 15th of each month and a check shall be mailed out within two (2) business days of this assessment.

Pitt County Detention Center
124 New Hope Road
Greenville, NC 27834
Attn: Tammy Evans

5. **Records & Confidentiality.** The Company shall maintain records sufficient to permit proper determination of funds due the Premise Provider. Such records shall be made available to the Premise Provider for review upon request. During and after the term of this agreement, including any renewal period(s), the Company shall recognize and protect the confidentiality of all information regarding the video visitation station location provided by Premise Provider, including revenue and remuneration paid to the Premise Provider, and shall not disclose such information to any party other than the Premise Provider and the Company, except through the express, written consent of the Premise Provider.

The revenue payment and reporting cycle will be a maximum of 45 days following the end of the previous month. Both summary and detail reports will be provided. The original reports and payment will be mailed directly to the Premise Provider. The following information will be provided for each location by account:

- Total Visits
- Total minutes of use
- Total usage revenue

6. Further assurances. During the term of this Agreement, including any renewal period(s), Premise Provider agrees to:
- A) Reasonably protect the Equipment against willful abuse and promptly report any damage, service failure or hazardous conditions to the Company.
 - B) Provide, at its expense, necessary power and power source, and provide suitable space, accessible to the users.
 - C) Permit reasonable access to its respective facilities without charge or prejudice to Company employees or representatives, patrons, or consignees. All Company employees must comply with current Premise Provider policy regarding access to facilities.
 - D) Premise Provider represents and warrants that it is legal authority to enter into this agreement and to make all decisions concerning the providing of space and the installation and use of the equipment at the facility; and agrees that during the term of this Agreement, including any renewal period(s), the Company shall have the exclusive right to provide offsite visitation service at the Facility provided, however, that the Company may choose not to exercise this exclusive right.
 - E) During the term of this agreement, Premise Provider agrees it will not allow other visitation systems to either remain or be installed at the facility's property. This is to include any additional visitation stations required to facilitate Premise Provider's expansion at its present or future location(s) during the term of this Agreement and any extensions of this Agreement.
 - F) Stipulate that Company had no responsibility to advise Premise Provider with respect to any applicable law, regulation, or guideline that may govern or control visitation recordation or monitoring by Premise Provider or compliance therewith. Company disclaims any responsibility to provide, and in fact has not provided, Premise Provider any legal advice concerning such applicable law, regulation, or guidance, or compliance therewith. Premise Provider agrees to indemnify, defend, and hold Company harmless from any liability, claims, suits, proceedings, damages, costs, and reasonable expenses (including attorney's fees) relating to any claims made against Company by any person arising out of failure of Premise Provider to comply with such applicable law, regulation guideline. This provision does not include claims arising out of failures in the electronic hardware or software provided by the Company.
 - G) Acknowledge that all visitation recordings contained in the video visitation system equipment provided by Company to Premise Provider are the exclusive property of the Premise provider.

7. **Notices.** Any Notice, demand, request, approval, or other communication(a "notice") which, under the terms of this agreement or by law, must or may be given by either party, must be in writing , and must be given by personally delivering or mailing the same by registered or certified mail, return receipt requested, to the respective parties a follows:

To Company:

Montgomery Technology, Inc.
23 Old Stage Road
Greenville, Alabama 36037
Phone: (334)382-7441
Fax: (334)382-9793
Attn: Nathan Skipper

To Premise Provider:

Pitt County Sheriff's Office
Detention Center
124 New Hope Road, Greenville, NC 27834
Phone: 252-902-5924
Fax: 252-830-4628
Attn: Jeff Phillips

8. **Governing Law.** The construction, interpretation and performance of this agreement and all transaction under it shall be governed by the laws of the State of North Carolina.
9. **Indemnification & Consequential Damages.** Each party shall indemnify the other from any loss, cost, damage, expense, or liability arising out of the performance of this Agreement and caused, in whole or in part, by the acts or omissions, negligence or fault, of the indemnifying party.

Neither party hereunder shall be liable to the other for any consequential or indirect loss, including but not limited to loss of profits, visitation or business interruption, howsoever caused and even if due to the negligence, breach of contract or other fault of the respective parties. Company's liability under this Contract shall in no event exceed the total Contract value or \$500,000, whichever is lesser.

10. **Default.** In the event any party shall be in breach or default of any terms, conditions, or covenants of this agreement and such breach or default shall continue for a period of thirty (30) days after the giving of written notice thereof to any party by the other, then in addition to all other rights and remedies of law or equity or otherwise, the offended party shall have the right to cancel this Agreement without charge of liability.
11. **Insurance.** Company shall carry at least \$500,000 in liability insurance, and workers' compensation coverage as may be required by law.
12. **Assignment.** This agreement is binding upon the parties listed in this agreement and must be reviewed and agreed upon by any new Administration or interest herein. The Company may not assign any interest herein to any other entity without the consent of the Premise Provider.
13. **Independent Contractor.** The company acknowledges that it is an independent contractor and that nothing contained in this Agreement or the relationship of the parties is intended to or shall create a partnership or joint venture or agency relationship of any kind between parties. This agreement shall not be construed as a contract of agency or

employment. Company shall be solely responsible and liable for compliance with all laws, rules and regulations and payment of all wages, unemployment, social security and other payroll taxes relating to Company's employees including contribution from such persons, when required by law.

14. **Solicitation.** The Premise Provider acknowledges that no officer or employee of the Company has been employed, induced, or directed by Premise Provider to solicit or secure this agreement with the Company upon agreement, offer, understanding, or implication involving any form of remuneration whatsoever. Premise Provider agrees, in the event of an allegation of substance (the determination of which will be solely made by the Company) that there has been a violation hereof, Premise Provider will cooperate in every reasonable manner with the Company in establishing whether the allegation is true. Notwithstanding any provisions of the agreement to the contrary, if a violation of the provision is found to have occurred and is deemed material by the Company, the Company may terminate agreement.
15. **Force Majeure.** Neither party to this Agreement shall be responsible or liable to the other for delays or inability to act or perform their obligations under this contract due to circumstances, events or acts of others beyond their reasonable control, including but not limited to, acts of God, fire, flood, storm, hurricane, tornado, theft of equipment, or changes in regulatory rules or regulations affecting the ability of either party to reasonably carry out its obligations under this Agreement. It is agreed and understood that this Agreement will be subject to termination by either party upon sixty(60) days' notice to the other should there be imposed upon Premise Provider or Company any rule or regulation by any state, federal or local regulatory agency which would substantially adversely affect the operation of the equipment or service provided hereunder.
16. **Dispute Resolution.** Premise Provider and Company agree that any disputes or claims arising under this Agreement shall be resolved through alternative dispute resolution means in the following manner:
 - A) Initially, the parties shall engage in non-binding mediation. Mediation shall be held in Pitt County, NC, USA or such other sites as is mutually agreed to by the parties. The mediator shall be jointly appointed by the parties and shall have expertise in commercial dispute resolution.
 - B) In the event the dispute or claim is not satisfactorily resolved through mediation within ninety (90) days of notice of such claim or dispute by a party, the parties agree to submit such a dispute or claim to binding arbitration through a single arbitrator who may be agreed to by the parties or, if unable to agree, appointed by a court. Arbitration shall be held in Pitt County, NC, USA or such other site as is mutually agreed to by the parties. Any judgment, decision or award by the arbitrators shall be final and binding on the parties.
 - C) The parties shall bear their own costs and expenses (including attorney's fee) for any mediation or arbitration.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the Premise Provider and the Company and supersedes all other agreements between the parties pertaining to the subject matter hereof. If any part hereof is determined to be in violation or denegation of North Carolina or Federal law, then that part shall be eliminated and deemed void.
18. **Amendment.** No course of dealing between the parties, their employees, agents or representatives, shall vary any of the terms hereof. This Agreement may be modified, amended, or supplemented only by a written agreement executed by the parties.
19. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original, and all of which shall be one and the same contract.

[Signature Page Follows]

IN WITNESS WHEREOF, the foregoing Agreement has been executed by the parties hereto,
this 2nd day of June, 2017.

Company

Montgomery Technology, Inc.


Signature

Name: Nathan Skipper
Title: Vice President

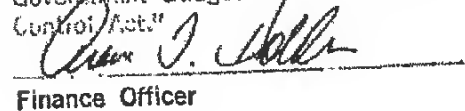
Premise Provider

Pitt County Sheriff's Office


Signature

Name: R. Neil Elks
Title: Sheriff

"This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal
Control Act."


Finance Officer

This document has been reviewed and final
approval has been given by Pitt County Manager


County Manager - Pitt County

APPROVED AS TO FORM


County Attorney

**IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY
NORTH CAROLINA SESSION LAW 2015-118 AND
CHAPTER 147, ARTICLE 6E OF THE NORTH CAROLINA GENERAL STATUTES**

Name of Contractor: Montgomery Technology, Inc

As of the date listed below, the Contractor named above is not listed on the Final Divestment List created by the State Treasurer pursuant to North Carolina Session Law 2015-118 and Chapter 147, Article 6E of the North Carolina General Statutes.

The undersigned hereby certifies that he or she is authorized by the Contractor named above to make the foregoing statement.


Signature

7/25/2017
Date

Nathan Skipper
Printed Name

Vice President
Title

Notes to persons signing this form:

North Carolina Session Law 2015-118 and Chapter 147, Article 6E of the North Carolina General Statutes requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

North Carolina Session Law 2015-118 and Chapter 147, Article 6E of the North Carolina General Statutes also requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/iran and will be updated every 180 days.

**E-VERIFY CERTIFICATION
PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-133.3**

Name of Contractor: ~~Attt~~ Montgomery Technology, Inc

Pursuant to North Carolina General Statute 153A-449, no county may enter into a contract unless the contractor and the contractor's subcontractors comply with the E-verify requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

In accordance with North Carolina General Statute 143-133.3, the undersigned hereby certifies, and Incorporates into its contract with Pitt County, that the Contractor named herein, and the Contractor's subcontractors, comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

The undersigned hereby certifies that he or she is authorized by the Contractor named above to make the foregoing certification.


Signature

7/25/2017
Date

Nathan Skipper
Printed Name

Vice President
Title

701A 2290 0002 2746 2288

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YOUR OPINION COUNTS

mcx 2.13.19